

Functional Series 300: Acquisition and Assistance
ADS Chapter 302 - USAID DIRECT CONTRACTING

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Functional Series 300: Acquisition and Assistance
ADS Chapter 302 - USAID DIRECT CONTRACTING

302.1 Authority

1. The Office of Federal Procurement Policy (OFPP) Act of 1974 (Pub. L. 93-400), as amended by Pub. L. 96-83.
2. OFPP Policy Letter 85-1, Federal Acquisition Regulations System, dated August 19, 1985.
3. Foreign Assistance Act of 1961, as amended, Section 621(b)
4. Foreign Assistance Act of 1961, as amended, Section 636(h)
5. Executive Order 11223
6. The National Defense Authorization Act for FY 1997 (Public Law No. 104-201), Section 821(b)

302.2 Objective

To provide the basic, uniform policies and procedures for the procurement of goods and services by the U.S. Agency for International Development (USAID) for the purposes of implementing Agency programs and supporting Agency logistics.

302.3 Responsibility

1. Procurement Executive: The procurement executive is responsible for the management direction of USAID's assistance and acquisition ("A&A") system, as so delegated and more fully described in ADS 103.3.10.6. **(See [ADS 103.3.10.6](#))**
2. Director, Office of Procurement (M/OP): The Director, M/OP is responsible for:
 - a) Selecting and appointing contracting officers and terminating their appointments.
 - b) Exercising, in person or by delegation, other authorities as stated in the Federal and USAID Acquisition Regulations **(See [Mandatory References, FAR Subparts 1.3 and 1.6, and AIDAR Subparts 701.3 and 701.6](#))**
 - c) Approving contractor salaries exceeding the maximum for Senior Executive Service level 6.
3. Head of the Contracting Activity (HCA): **(See [Mandatory Reference AIDAR 701.601](#)** for a listing of the various USAID Heads of Contracting Activities and the limitations on their authority.) HCAs are

responsible for procuring supplies and services necessary to carry out the programs and activities for which they are responsible, including executing contracts (within the authorities specified in AIDAR Subpart 701.60) and establishing procurement policies, procedures, and standards appropriate for these programs and activities, subject to the policy stated in this chapter. **(See Mandatory Reference, [AIDAR 701.601](#))**

4. The Bureau for Management, Office of Procurement (M/OP): M/OP is responsible for:

- a) Developing, issuing, and maintaining the Agency's acquisition regulations, procedures, and standards for issuance in accordance with established Agency delegations and requirements.
- b) Evaluating the Agency's procurement system and providing recommendations to the Procurement Executive regarding the certification specified in 302.3, para. 1 **(See [302.3, para. 1](#))**, and for providing technical support to overseas contracting officers.

5. Contracting Officers and negotiators in M/OP; the Bureau for Humanitarian Response, Office of Foreign Disaster Assistance (BHR/OFDA); the Bureau for Global Programs, Field Support and Research, Center for Human Capacity Development (G/HCD); and overseas posts are responsible for entering into, administering, and/or terminating USAID-direct contracts in accordance with the limitations of their delegated authority and the policy and essential procedures in this chapter.

302.4 Definitions (See GLOSSARY [Word](#) | [PDF](#) | [HTML](#) and [FAR Part 2](#) and [AIDAR Part 702](#))

[Agency Competition Advocate](#)
[Contract Information Bulletins \(CIBs\)](#)
[contracting officer](#)
[direct procurement](#)
[Federal Acquisition Regulation \(FAR\)](#)
[Head of the Contracting Activity \(HCA\)](#)
[USAID Acquisition Regulation \(AIDAR\)](#)

Other relevant definitions are specified in FAR Part 2 and AIDAR Part 702, including the following specific terms used in this chapter **(See Mandatory References, [FAR Part 2](#) and [AIDAR 702](#))**:

contracting activities
Procurement Executive

302.5 POLICY

The statements contained within the .5 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

302.5.1 APPLICABILITY OF FAR, AIDAR, AND CONTRACT INFORMATION BULLETINS (CIBS)

It is USAID policy to conduct all direct procurement in accordance with the FAR and AIDAR, and to implement new procurement requirements through Contract Information Bulletins (CIBs) when it is necessary to implement the change prior to formal amendment of acquisition regulations. Direct procurements must comply with the terms of such CIBs. **(See Mandatory References, [FAR](#), [AIDAR](#), and [CIBs](#))**

E302.5.1 Applicability of FAR, AIDAR, and Contract Information Bulletins (CIBs) - N/A

302.5.2 DEVIATIONS

USAID Contracting Officers must use the procedures in Mandatory Reference AIDAR 701.4 when deviating from the policies or essential procedures in this ADS chapter (302) (See Mandatory Reference AIDAR 701.4). However, no deviation may be made to the policy and essential procedure in section 302.5.3 and E302.5.3.

E302.5.2 Deviations - N/A

302.5.3 APPROVAL OF CONTRACTOR SALARIES EXCEEDING EXECUTIVE SERVICE LEVEL 6 (ES-6)

a) It is USAID policy to pay personnel compensation under the types of USAID-direct contracts specified in paragraph b) below at the minimum levels necessary to attract needed technical services in a competitive market. Since the market value for the types of services under USAID contracts is typically below the ES-06 level, it is USAID policy to obtain the approval of the Director, Office of Procurement (M/OP) before the contracting officer provides approval for payment of salaries that exceed the ES-6 level under direct contracts, including personal services contracts (PSCs) **(See Mandatory References, [AIDAR](#), [Appendices D and J](#))**.

b) The types of non-PSC contracts to which the policy in paragraph a) applies are (1) all cost-reimbursement contracts; and (2) any other type of contract in which the actual salary of the individual to be used under the contract or task order is required in order to establish the price or the fixed

unit rate of the contract or task order (which may include non-competitive firm fixed price contracts, or indefinite quantity contracts using a "multiplier"). The policy does not apply to competitively-awarded contracts using a prenegotiated fixed burdened rate established in the basic contract (for example, in task order contracts as defined in Mandatory Reference FAR 16.501-1, or time-and-materials or labor-hour contracts, or any combination of these contract types, addressed in Mandatory Reference FAR 16.6). The policy does not apply when an individual is compensated from the contractor's indirect costs. "Individual", as used in this section, means an employee of the prime contractor or the subcontractor, or a consultant for either, or the contractor him or herself when the contract is for the non-personal services of an individual.

E302.5.3 Approval of Contractor Salaries Exceeding Executive Service Level 6 (ES-6)

a) The procedures to be followed to obtain the approval of the M/OP Director to pay any personnel compensation exceeding the ES-6 level are as follows.

1. The cognizant technical office with responsibility for the activity for which the contract was awarded shall prepare a Memorandum in which the reasonableness of the proposed salary (ies) exceeding the ES-6 level is evaluated in terms of the technical competence required, scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the individual's customary salary level for similar work. The Memorandum shall be forwarded from the technical office through the cognizant Assistant Administrator or Mission Director and the contracting officer (CO) to the M/OP Director.
2. The contracting officer (CO) shall either clear the Memorandum, indicating concurrence with the request from the technical office, or, if the CO disagrees with the request, prepare a memorandum explaining the reasons and attach this memorandum to the technical office's Memorandum and forward the document(s) to the M/OP Director.
3. After the M/OP Director renders a decision, the contracting officer must convey that decision in writing to the contractor to facilitate the contractor's compliance with the relevant cost principles in AIDAR 731. If the terms of the contract require salaries over the ES 6 to be approved in writing by the contracting officer, then the contracting officer must also include a statement that the M/OP Director's approval constitutes the "contracting officer's approval" required by the terms of the contract. The

contracting officer must document actions required in this section in the contract file. **(See Mandatory References, [AIDAR 731.205-6](#), [731.371\(b\)](#), and [731.772](#))** The approval must be placed in the contract file.

b) Increases in the ES-6 salary levels shall not be, by themselves, the basis for salary increases of institutional contractor employees. Proposals for revisions shall be considered normally when contracts are renewed or amended, and must be fully reviewed and negotiated to ensure that increases are not automatically granted without corresponding increases in the quality or quantity of services rendered.

302.5.4 LOGISTIC SUPPORT OVERSEAS TO USAID-DIRECT CONTRACTORS

In furtherance of USAID's objectives to (1) increase the utilization of contractors in accordance with section 621 of the Foreign Assistance Act of 1961, as amended, (FAA), (2) reduce the administration burden on the USAID establishment in Cooperating Countries, and (3) ensure, in accordance with section 636(h) of the FAA, that to the maximum extent possible local costs are met from Cooperating Country funds or United States (U.S.) Government-owned local currency rather than from U.S. dollars, the policies in this section 302.5.4 and other Agency regulations govern the financing and provision in kind of logistic support overseas to USAID-direct contractors. Missions shall make every effort to foster the development of country-wide standards for comparable classes of contractors. In all instances, logistic support shall be provided at the minimum level necessary to assure efficient, economical, and effective contractor performance.

E302.5.4 Logistic Support Overseas to USAID-Direct Contractors

- a) Each request document shall
 - o Indicate each type of logistic support, such as transportation of personnel, personal goods and commodities; quarters, furnishings, equipment, utilities, and supplies for residence and office; and maintenance and other supporting services, including medical facilities, to be made available; and
 - o Indicate whether each type of logistic support shall be in cash or in kind, and whether it shall be provided by the Cooperating Country, the Mission, or by the contractor itself.
- b) The contracting officer shall ensure that the contract reflects the information contained in the requesting document.

302.5.4a FINANCING OF LOGISTIC SUPPORT

Local currencies shall be used wherever feasible and in accordance with the financial management requirements in Handbook 19 or subsequent ADS Chapter in lieu of dollars to defray the costs of contractor logistic support, whether such support is arranged for by the contractor, the Cooperating Country, or USAID. USAID dollars are used to finance logistic support overseas only when no reasonable alternative exists by which such support can be financed with local currency or provided in kind. Local currencies shall be contributed from the following sources in descending order of preference:

- 1) The Cooperating Country's own budgetary or private resources;
- 2) Cooperating Country-owned local currency generated through USAID or Pub. L. 480 programs; and
- 3) U.S. Government-owned country-use local currency generated through USAID or Pub. L. 480 programs.

E302.5.4a Financing of Logistic Support - N/A

302.5.4b ARRANGEMENTS FOR LOGISTIC SUPPORT

Each Mission shall assess the local logistic support situation and determine which of the following three methods, listed in descending order of preference, is best suited for its programs:

- 1) Arrangements by the contractor itself where feasible and reasonably economical. (It is assumed that this test will be met in the case of virtually all construction contracts and in most of the larger engineering and technical assistance contracts.)
- 2) Arrangements by the Cooperating Country where these would be timely, adequate, and feasible in terms of the country's economic and administrative resources.
- 3) Arrangements by the Mission alone or jointly with either or both of the other parties, in those cases where the Mission Director determines that adequate and timely logistic support at reasonable cost cannot be assured through the other options. In such cases, and when direct-hire resources are inadequate, the Mission is encouraged, wherever feasible, to contract for assistance in providing logistic support. When needed, guidance on logistic

support contracts shall be obtained from M/OP and the Office of General Counsel, (GC).

E302.5.4b Arrangements for Logistic Support - N/A

302.5.4c EXCEPTIONS

For each post, only the Mission Director, principal USAID officer at post, or individual serving in an "Acting" capacity has the authority to approve any exceptions to the policies in this section 302.5.4 for that particular post. Such exceptions shall be justified and approved in writing.

E302.5.4c Exceptions - N/A

302.5.5 INCORPORATING COMPETITIVE PROPOSALS INTO CONTRACTS BY REFERENCE

Contracting officers are prohibited from incorporating the entire proposal from successful offerors under competitive solicitations into contracts by reference. To the extent that any portion of a proposal is of substantial importance to the contract, then the Contracting Officer must expressly state that portion in the contract or incorporate a very specific, clearly delineated citation in the contract that references just that portion of the proposal.

E302.5.5 Incorporating Competitive Proposals into Contracts by Reference - N/A

302.5.6 GRANTS UNDER USAID CONTRACTS

a) When the Head of the Contracting Activity (HCA) provides written approval, the Contracting Officer may enter into a contract that provides for a USAID-direct contractor to execute grants with non-governmental organizations (not-for-profits or for-profits). The following conditions must be met for approval:

1. The total value of any individual grant to any U.S. organization shall not exceed \$25,000.

2. It is not feasible to accomplish USAID objectives through normal contract and grant awards executed by USAID because either:

a. The burden of executing a number of small grant activities is particularly difficult for the responsible USAID Mission or office; or

- b. The grant program is incidental and relatively small in comparison to other technical assistance activities of the contractor.
- b) USAID must be significantly involved in establishing selection criteria and must approve the actual selection of grant recipients. USAID may be less significantly involved when grants are quite small and are incidental to the contractor's technical activities.
- c) USAID must ensure that the requirements that apply to USAID-executed grants shall also apply to grants signed by a USAID contractor.
- d) USAID must retain in the contracting arrangement the ability to terminate the grant activities unilaterally in extraordinary circumstances.
- e) HCA approval is not required when a contractor will only be managing or administering grants after they have been awarded by USAID.
- f) Contractors may not be authorized to execute or administer cooperative agreements on USAID's behalf.

E302.5.6 Grants Under USAID Contracts

The Grants Under Contracts procedure may be used only after (1) clearance from the cognizant GC or Legal Advisor and the Contracting Officer, and then (2) the HCA has approved its use in writing for a specific contract.

302.5.7 KEY PERSONNEL

- a) Contracting Officer Approval of Key Personnel.

It is USAID policy that contracts must designate as Key Personnel only those personnel directly responsible for management of the contract, or whose professional/technical skills are certified by the cognizant technical officer as being essential for successful implementation of the activity. In any event, the number of key personnel designated for any contract may not be more than five individuals or five percent of contractor employees working under the contract, whichever is greater.

- b) Multiple Candidates.

USAID may not require that Contractors propose more than one individual for each position, since requiring contractors to submit multiple candidates

for USAID's approval in key personnel positions is inappropriate. USAID is not entitled to select for the contractor, only to refuse a contractor's selection when the individual is found to be unacceptable for good and sufficient reason.

E302.5.7 Key Personnel

- a) Sample solicitation provision - availability.

Where the qualifications of key personnel are a significant evaluation factor in the award of a contract, the Contracting Officer must be reasonably assured that the names of the proposed key personnel have been submitted in good faith by the offeror with the consent of those being proposed. To this end, the solicitation document shall include language substantially as follows:

"The contract proposed by this solicitation includes a key personnel clause, and the quality of key personnel proposed will be an evaluation factor. The offeror must include as part of its proposal a statement signed by each person proposed as key personnel confirming their present intention to serve in the stated position and their present availability to serve for the term of the proposed contract."

- b) Sample contract provision - Contracting Officer consent to replace key personnel.

The key personnel provision in the contract must require the prior consent of the Contracting Officer for any changes in key personnel, to ensure that replacements have at least equal qualifications. Sample language for this provision follows:

"Key Personnel

- A. The key personnel which the Contractor shall furnish for the performance of this contract are as follows:

Name	Position
------	----------

- B. The personnel specified above are considered to be essential to the work being performed hereunder. Prior to replacing any of the specified individuals, the Contractor shall notify both the Contracting Officer and the USAID Cognizant Technical Officer reasonably in advance and shall submit written justification (including proposed substitutions)

in sufficient detail to permit evaluation of the impact on the program. No replacement shall be made by the Contractor without the written consent of the Contracting Officer."

302.5.8 SUBMISSION OF JUSTIFICATIONS FOR OTHER THAN FULL AND OPEN COMPETITION TO THE AGENCY COMPETITION ADVOCATE

It is USAID policy that Contracting Officers must provide a copy of all justifications for other than full and open competition for awards exceeding \$250,000 (U.S.) and prepared in accordance with FAR 6.303, to the Agency Competition Advocate (**See Mandatory Reference [AIDAR 706.501](#)**).

E302.5.8 Submission of Justifications for Other Than Full and Open Competition to the Agency Competition Advocate - N/A

302.5.9 EVALUATION OF CONTRACTOR PERFORMANCE

a) It is USAID policy that contracts in excess of \$100,000, including individual task orders under indefinite quantity contracts, must be evaluated at least annually (for contracts exceeding one year in duration) and on completion of activities, as required by FAR 42.1502, except as provided in FAR 42.1502(b) (**See Mandatory Reference [FAR 42.15](#)**) and corresponding AIDAR coverage, as appropriate. More frequent evaluations may be conducted if the Contracting Officer and Cognizant Technical officer determine them to be in the best interests of the activity.

b) The National Institutes of Health (NIH) Contractor Performance System (CPS) must be used to compile and record these reports if the Contracting Officer has been given access to it by the USAID Past Performance Coordinator.

E302.5.9 Evaluation of Contractor Performance

a) The cognizant Contracting Officer begins the evaluation by identifying the contracts and task orders that are due for either interim or final performance evaluations.

b) Contracting Officers with access to the NIH CPS complete the identification information in the NIH Project Officer Assignment Option or the NIH Contractor Performance Insert Form (For more information about the NIH CPS, contact the Past Performance Coordinator at e-mail address PastPerformance@usaid.gov) Contracting Officers without access to the NIH CPS complete this information on the Contractor Performance Report (CPR), USAID Form 1420-66 (available on the USAID intranet at: <http://tcoweb.usaid.gov/forms/>).

- c) The Contracting Officer then forwards the appropriate form, as prescribed in paragraph b), to the Cognizant Technical Officer, who provides an initial assessment of performance from the technical office's perspective and then returns the form to the Contracting Officer.
- d) The Contracting Officer supplements and revises the CTO's assessment as appropriate, verifies information about key personnel and subcontracts, completes any additional information as appropriate, and, after noting the date, sends the form (either the NIH CPS form or the AID Form 1420-66) to the contractor for review and comment.
- e) The Contractor has 30 days in which to provide to the Contracting Officer comments, rebutting statements, or additional information, and the name, phone number or Internet address of the person submitting the information for the contractor. If the Contractor fails to respond, the Contracting Officer so notes and either completes the report in the NIH CPS or makes a final rating on the CPR form, files it in the contract's administration folder, and provides a copy to the USAID Past Performance Coordinator.
- f) If the contractor does submit a response that results in a disagreement between the parties involved in the evaluation, the matter shall be referred to a level above the Contracting Officer. The official at this level must review the case and make a decision in writing within 15 days of receipt of the contractor's response. This decision is final.

The Contracting Officer then:

1. Records the final rating on the form;
2. Attaches the agency decision;
3. Finalizes the evaluation in CPS or signs the AID form 1420-66;
4. Sends one copy of the finalized report to the contractor;
5. If the report is not entered into the CPS, e-mails the report with any contractor comments or decision memo (if produced in accordance with paragraph f) above), if in electronic format, to the Past Performance Coordinator; and
6. Files the original with all attachments in the contract administration folder.

- g) Because Past Performance reports may be used to support future contract award decisions, they are designated as "Source Selection Information" and must be handled in accordance with FAR 3.104.
- h) Specific instructions and guidance for completing Contractor Performance Reports in CPS and access to CPS are provided by the USAID Past Performance Coordinator. The instructions for using CPS are available on the CPS Info Page of the NIH system. Contracting Officers who have not yet been given access the NIH system shall follow instructions and procedures found in Mandatory Reference "Past Performance Handbook - Contractor Performance Report Cards". **(See Mandatory Reference ["Past Performance Handbook - Contractor Performance Report Cards"](#))**

302.5.10 PAST PERFORMANCE INFORMATION IN SOURCE SELECTION

When obtaining Past Performance Information (PPI) for source selection purposes **(See [E302.5.10.a\)1.](#))**, the Contracting Officer must ensure that PPI obtained from outside the Past Performance database is consistent with the information in the database by using data elements that comply with those used to evaluate contractor performance as described in sections 302.5.9 and E302.5.9.

E302.5.10 Past Performance Information in Source Selection

- a) General.
 - 1. The Contracting Officer uses PPI for two different purposes when selecting the offeror to whom to award the contract. The offeror must have a satisfactory performance record in order for the Contracting Officer to make a positive determination that the offeror is responsible and therefore eligible to receive the award, in accordance with FAR 9.1 **(See Mandatory References [FAR 9.104 and 9.105](#))**. In addition, the source selection authority (usually the Contracting Officer, **(See Mandatory Reference [FAR 15.303\(a\)](#))**, supported by the evaluation team, must normally also evaluate the offeror's past performance to make a comparative assessment of the offeror's past performance as an indicator of how well the offeror is likely to perform the contract **(See Mandatory Reference [FAR 15.305\(a\)\(2\)](#))**.
 - 2. The Contracting Officer obtains PPI for an offeror by searching the NIH CPS Reports Listing. A Contracting Officer who does not have access to CPS **(See [302.5.9](#))** requests the USAID Past Performance Coordinator PastPerformance@usaid.gov to search the PPI database.

3. If the PPI database does not contain enough data for either of the purposes in ADS 302.5.9.a.1., the Contracting Officer must ask the references named by the offeror, as well as any others who may have relevant information, to respond to the relevant assessment areas or data elements contained in the NIH CPS or the CPR (**See [E302.5.9](#)**). The Contracting Officer has the discretion to determine how many references to request from the offeror, keeping in mind the U.S. Government's policy of requiring the public to provide only the minimum information needed by the Government to carry out its business. Documented PPI obtained in accordance with this section is retained in the contract file as part of the source selection documentation and is not provided to the PPI Database.

b) Use of PPI in Determining Responsibility. When used for this purpose only, the Contracting Officer retains the documented PPI and handles it in accordance with FAR 9.1.

c) PPI as a Non-cost Evaluation Factor. When PPI obtained in accordance with this section is needed as part of the proposal evaluation for source selection purposes per FAR 15.3, the procurement official (i.e., the Contracting Officer or any person on the evaluation team designated by the Contracting Officer to obtain the information) provides the information to the proposal evaluation committee, who then evaluates the information in accordance with the terms of the solicitation. The documented PPI is handled in accordance with FAR 15.3. (**See Mandatory Reference [FAR Subpart 15.3](#)**)

d) In the case of joint ventures, the Contracting Officer must use reasonable business judgment to determine the relevant past performance for each of the joint venture partners. This includes determining how or whether to apportion credit for the evaluation. Follow-up with reference contacts concerning the partners' individual performance is recommended.

302.5.11 MANAGEMENT OF COST INFORMATION IN NEGOTIATED PROCUREMENTS

a) The Contracting Officer may not include the Government cost estimate in a competitive solicitation expected to result in a Level of Effort - Term form of cost-reimbursement contract, but may include the Government estimate in competitive solicitations expected to result in other types of cost-reimbursement contracts, particularly Performance-Based Services Contracts.

b) Contracting Officers may provide cost information from proposals to members of the technical evaluation team during the source selection process in accordance with the essential procedures contained in E302.5.11, which constitute the Agency procedures required in Mandatory Reference FAR 15.305(a)(4).

E302.5.11 Management of Cost Information in Negotiated Procurements

The decision to provide cost information from proposals to members of the technical evaluation team (TET) rests with the Contracting Officer, who may request TET input as part of the cost realism analysis required in Mandatory Reference FAR 15.404-1(d). While the Contracting Officer has considerable discretion as to how much, when, to whom, and even if cost information is to be provided, the following guidelines must be considered and the decision documented in the negotiation file:

a) The Contracting Officer decides which portions of the cost proposals are to be shared with the TET. While there may be circumstances in which the entire cost proposal is provided to the TET, in many cases, only certain components of the cost proposals need to be provided; e.g., in-country housing costs, number of trips and their duration, proposed level and distribution of effort under completion form contracts, etc. If the cost proposals vary significantly either from the Government estimate or in comparison to each other, then the TET may assist in analyzing the discrepancies.

b) The preferred timing for the Contracting Officer to share cost information with the TET is after the initial technical assessment and scoring has taken place, but early enough in the process to ensure adequate attention to discrepancies and questions during negotiations. The Contracting Officer may also share with the TET any revisions to cost proposals resulting from negotiations, if in the Contracting Officer's judgment doing so aids the analysis of the revisions.

c) The Contracting Officer does not have to share cost information with all members of the TET. After discussion with the Chairperson of the TET, the Contracting Officer decides who among the other members is best able to provide relevant analysis.

302.5.12 COMMERCE BUSINESS DAILY NOTICES

It is USAID policy that Contracting Officers prepare and transmit Commerce Business Daily (CBD) notices for contract actions, as required by FAR Subpart 5.2 and AIDAR 705.2, in accordance with the essential

procedures contained in E302.5.12. (See Mandatory References [FAR 5.2](#) and [AIDAR 705.2](#))

E302.5.12 Commerce Business Daily Notices

- a) Contracting Officers must prepare CBD notices in the format prescribed by FAR 5.207 and in accordance with the Guide for the Preparation and Submission Of Synopses and the USAID Commerce Business Daily Notices Guide. (See Mandatory References [FAR Subpart 5.2](#), [CBD Guide for the Preparation and Submission Of Synopses](#), and the [USAID Commerce Business Daily Notices Guide](#).)
- b) The Contracting Officer shall forward CBD notices to the Office of Procurement, Procurement Support Division, Support Services Branch (M/OP/PS/SUP) and send electronic and hard copies of the solicitations to the Internet Coordinator for posting on the Internet (e-mail address: opic@usaid.gov). The notices shall be sent as an attachment to e-mail to M/OP/PS/SUP. If this is not feasible, fax the notices to M/OP/PS/SUP at (202) 216-3395. THE CONTRACTING OFFICER MAY NOT SEND NOTICES FOR PUBLICATION DIRECTLY TO CBD/CHICAGO. Notices will normally be published within two to three business days after M/OP/PS/SUP transmits them. M/OP/PS/SUP shall inform the author offices of the publication date in the CBD.
- c) Contracting Officers are reminded of the Small Business screening procedure in AIDAR 719.271-6 and, for any funds still subject to the Disadvantaged Enterprise Program (see [AIDAR 706.302-71 and 726.70](#)), in AIDAR 705.207 (see Mandatory References [AIDAR 706.302-71, 719.271-6 and 726.70](#)). In keeping with Agency policy that encourages the consideration of minority, disadvantaged firms, M/OP/PS/SUP will provide a courtesy copy of all notices not subject to prior OSDDBU screening to that office at the same time the notice is transmitted to CBD.
- d) When submitting a notice for publication in the CBD to M/OP/PS/SUP that is not subject to screening by OSDDBU, Contracting Officers must state the reason for the OSDDBU review exemption to M/OP/PS/SUP so that the notice can be electronically transmitted without delay to the CBD. Otherwise, M/OP/PS/SUP will forward all notices to OSDDBU and delay transmission of the notice to CBD by five business days

302.5.13 COMPOSITION OF EVALUATION COMMITTEES

- a) It is USAID policy that USAID staff (direct-hires, PSCs, and PASA/RSSA direct-hire employees) must constitute a majority of the membership on all technical evaluation committees. Evaluators from

other Federal agencies and non-governmental evaluators, including Fellows, may participate, provided that they comply with any applicable requirements for or limitations on their participation stated in this chapter, in FAR Parts 3 and 15, or in AIDAR Part 715 (**See Mandatory References [FAR 3](#), [FAR 15](#), and [AIDAR 715](#)**).

b) Contracting Officers must take reasonable precautionary steps to avoid the possibility of conflicts of interest arising on the part of technical evaluation team members. One such step is to verify with TET/TEC members that they or their spouse or dependents have no connections, such as financial interests, with any of the offerors prior to commencing evaluations. Contracting Officers are to refer any potential problems to their cognizant Regional Legal Advisor for overseas actions and to the Assistant General Counsel for Ethics and Administration (GC/EA) for AID/W actions.

E302.5.13 Composition of Evaluation Committees

As required in AIDAR 715.305(c) (**See Mandatory Reference [AIDAR 715.3](#)**), a Non-Governmental Evaluator (NGE) or an Evaluation Assistance Contractor (EAC) participating in a technical evaluation must certify and agree in writing that they will safeguard the proposals and information in them and that they perceive no actual or potential conflict of interest. The certification statement to be used follows:

CERTIFICATION AND AGREEMENT FOR THE USE AND DISCLOSURE OF PROPOSALS

With respect to proposals submitted in response to USAID solicitation no. _____, the undersigned hereby agrees and certifies to the following:

1. I will use the proposals and all information therein other than information otherwise available without restriction, for evaluation purposes only. I will safeguard the proposals, and will not remove them from the site at which the evaluation is conducted unless authorized by the Contracting Officer. In addition, I will not disclose them, or any information contained in them (other than information otherwise available without restriction), except as directed or approved by the Contracting Officer.

2. I will ensure that any authorized restrictive legends placed on the proposals by prospective contractors or subcontractors, or USAID, will be applied to any reproduction, or abstract of information, made by me.

3. Upon completing the evaluation, I will return all copies of the proposals, and any abstracts thereof, to the USAID office that initially furnished them to me.

4. Unless authorized by the contracting officer in advance in writing I will not, -- whether before, during, or after the evaluation -- contact any prospective contractor or subcontractor, or their employees, representatives or agents, concerning any aspect of the proposal.

5. I have carefully reviewed my employment (past, present and under consideration) and financial interests, as well as those of my household family members. Based on this review, I certify, to the best of my knowledge and belief as of the date indicated below, that I either (1) have no actual or potential conflict of interest, personal or organizational, that could diminish my capacity to perform an impartial and objective evaluation of the proposals, or that might otherwise result in an unfair competitive advantage to one or more prospective contractors or subcontractors, or (2) have fully disclosed all such conflicts to the contracting officer, and will comply fully, subject to termination of my evaluation services, with any instructions by the contracting officer to mitigate, avoid, or neutralize conflicts(s). I understand that I will also be under a continuing obligation to disclose, and act as instructed concerning, such conflicts discovered at any time prior to the completion of the evaluation.

Signature: _____

Name Typed or Printed: _____

Date: _____

302.5.14 INCORPORATING GENDER CONSIDERATIONS INTO EVALUATION CRITERIA FOR COMPETITIVE SOLICITATIONS

To ensure that competitive contract solicitations comply with the policy contained in the bullet item "Gender" in ADS 201.3.6.3 part a. (See ADS 201.3.6.3), Contracting Officers must

- a) Incorporate into the request for proposal (RFP) the statement outlining gender issues or confirm that the Strategic Objective Team (SOT) completed the rationale for not specifying gender issues as part of the activity approval; AND
- b) Include in the RFP an appropriately weighted technical evaluation criterion addressing the gender considerations specified in the statement, if applicable.

E302.5.14 Incorporating Gender Considerations into Evaluation Criteria for Competitive Solicitations – N/A

302.6 Supplementary References

[Guidance for Award Fee Contracting](#)

[Guidebook for Managers and Cognizant Technical Officers on Acquisition and Assistance](#)

302.7 Mandatory References

[ADS 103](#)

[ADS 201](#)

[AIDAR](#)

[CIBs](#)

[Description of Numbered Notes](#) (UPDATED 12/99)

[FAR](#)

[Guidance on Funding Foreign Government Delegations to International Conferences](#)

[Guide for the Preparation and Submission of Synopses](#) (January 1991)

[Past Performance Handbook - Contractor Performance Report Cards](#)

[USAID Commerce Business Daily Notices Guide](#)

Agency Competition Advocate

See Competition Advocate. (Chapter 302)

Contract Information Bulletins (CIBs)

Issued by the Director, Office of Procurement (M/OP) to provide information of interest to contracting personnel, such as advance notification or interim implementation of changes in acquisition or assistance regulations, reminders, procedures, and general information. (Chapter 302)

contracting officer

A person representing the U.S. Government through the exercise of his/her delegated authority to enter into, administer, and/or terminate contracts and make related determinations and findings. This authority is delegated by one of two methods: to the individual by means of a "Certificate of Appointment", SF 1402, as prescribed in FAR 1.603-3, including any limitations on the scope of authority to be exercised, or to the head of each contracting activity (as defined in AIDAR 702.170), as specified in AIDAR 701.601. (Chapters 302 and 331)

direct procurement

See Direct Acquisition (Chapter 302)

Federal Acquisition Regulation (FAR)

The primary document containing the uniform policies and procedures for all executive agencies for acquisition of supplies and services with appropriate funds. It is issued as Chapter 1 of Title 48, Code of Federal Regulations (CFR). (Chapters 302 and 330)

Head of the Contracting Activity (HCA)

The official who has overall responsibility for managing the contracting activity. AIDAR 702.170-10 lists each HCA in USAID and the limits on the contracting authority for each are listed in AIDAR 706.601. Also see Contracting Activity. (Chapters 302, 330, and 331)

USAID Acquisition Regulation (AIDAR)

USAID's supplement to the FAR, issued as Chapter 7 of Title 48, CFR. (Chapters 302 and 330)

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